

FILED

FEB 22 2010

U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**GLAXO GROUP LIMITED,
d/b/a GLAXOSMITHKLINE,**

Plaintiff,

v.

**HON. DAVID J. KAPPOS,¹
Under Secretary of Commerce for
Intellectual Property & Director of the
United States Patent & Trademark Office,**

Defendant.

Civil Action No. 09-908 (RWR)

ECF

PROPOSED ORDER

Upon consideration of the parties' Joint Status Report and Joint Motion to Lift Stay and Remand to USPTO, and the record herein, it is hereby **ORDERED** that the joint motion be, and hereby is, **GRANTED**.

It is further **ORDERED** that the stay issued in this case is lifted; and

It is further **ORDERED** that the plaintiff's existing patent-term calculation is hereby **VACATED**; and

It is further **ORDERED** that the matter is **REMANDED** to the United States Patent and Trademark Office ("USPTO") for recalculation and adjustment of the disputed patent term in accordance with the decision of the United States Court of Appeals for the Federal Circuit in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, __ F.3d __, 2010 WL 27184 (Fed. Cir. Jan. 7, 2010), and

¹ Hon. David J. Kappos is automatically substituted for former Acting Under Secretary and Acting Director Hon. John J. Doll. See Fed. R. Civ. P. 25(d).

consistent with the USPTO's published interim procedure for such calculations.

It is **SO ORDERED** this 19th day of February, 2010.



Richard W. Roberts
United States District Judge